D.B. WRIT CONTEMPT PETITION NO. 126/2004.

ASHOK KUMAR TRIVEDI & ORS.VS.B.K.MEENA & ORS.

D.B. CIVIL REVIEW PETITION NO. 295/04 DR(J)

STATE & ORS. VS. ASHOK KUMAR TRIVEDI & ORS.

DATE OF ORDER : 06.09.2005.

HON'BLE MR. RAJESH BALIA,J.
HON'BLE MR. R.S. CHAUHAN, J.

Mr. S.K. Poonia for Mr. Sanjay Mathur for the petitioner.
Mr. R.P.S. Chaudhary, AAG.

This contempt petition was filed by the applicants for initiating contempt proceedings against the respondents for willful disobedience of the order passed by this Court on 13.8.2003 to give the petitioners-appellants minimum of the pay scale from the date they joined the services of the respondents in pursuance of the order dated 31.3.1993 and in terms of the decision rendered by Supreme Court in *Surendra Kumar Gyani's* case within a period of three months, and fix them in the regular pay scale from the date of the order.

A complaint was made that this order has not been complied with through the contempt petition. The

respondents against the order dated 13.8.2003 passed in D.B. Civil Special Appeal had also filed a review petition before this Court pointing out that direction to put the petitioners in the regular pay scale with effect from the date of the order was an error apparent, inasmuch as during the pendency of the appeal, the services of the appellants come to an end on the availability of the selected candidates from R.P.S.C. by the order dated 19.2.96, therefore, to the extent the Court directed for making payment in the minimum of pay scale up to the date of the order, was erroneous on the face of it and so also the direction to fix the appellants in the regular pay with effect from the order is equally erroneous.

In support of this contention, the order dated 19.2.96 was placed on the record in support of review petition, and same was also pleaded in response to the reply to the contempt petition. Along with reply the order releasing the sanction for payment in the minimum of pay scale until the date of termination was also placed on record.

In view of the aforesaid circumstances, this Court has given an opportunity to the learned counsel for

the petitioner in Civil Contempt Petition No.126/2004 to explain the position of the order dated 19.2.96 whether that order subsists or was challenged and set aside.

Learned counsel for the petitioner today states that no remedial measures were taken against the order dated 19.2.96. In view of the aforesaid factual position, apparently the order of the Division Bench in Special Appeal No.379/96 dated 13.8.2003 deserves to be modified by correcting the error apparent on the face of record. The final direction in the order is modified. The Review Petition is allowed and to the extent the respondents were to give a minimum of the pay scale to the petitioners from the date of their appointment when they joined the services of the respondents in pursuance of the order dated 31.3.2003 in terms of the decision rendered in Surendra Kumar Gyani's case within a period of three months is modified and the minimum of pay scale shall be payable only until 19.2.96, the date when the services of the petitioners were terminated. No fixation in regular pay scale need be made.

Review petition is accordingly allowed with no orders as to costs.

As a result of the aforesaid corrections in the order dated 13.8.2003 in D.B. Civil Special Appeal No.379/96, the compliance of the modified order has been made as per the reply submitted by the respondents and thus, the contempt petition cannot survive. Accordingly, the notices of the contempt petition issued to the contemnors Nos. 1 to 6 are discharged.

No costs.

(R.S. CHAUHAN)J. **(RAJESH BALIA)J.**

Anil/